

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 15, 2004

Division: Public Works

Bulk Item: Yes X No

Department: Facilities Maintenance *J.K.*

AGENDA ITEM WORDING: Approval of a Consent to Assignment with Irwin S. Morse, M.D. Assignor, and David & Linda Shield, Assignee, for the change of ownership of the Town Square Mall in Marathon.

ITEM BACKGROUND: On July 27, 2004 David and Linda Shield purchased the Town Square Mall in Marathon, where we lease approximately 400 square feet of office space for the Drug Court Counselor.

PREVIOUS RELEVANT BOCC ACTION: On January 16, 2002, the Monroe County BOCC approved to enter into a Lease Agreement with Irwin S. Morse, M.D. d/b/a Town Square Mall for approximately 400 s.f. of office space for the Drug Court Counselor in Marathon. On December 18, 2002 and November 19, 2003, the BOCC approved to renew the lease for the first and second one year renewal options.

CONTRACT/AGREEMENT CHANGES: To change lease agreement with Monroe County BOCC from Irwin S. Morse, M.D. d/b/a Town Square Mall to David & Linda Shield d/b/a Town Square Mall. Rent amount remains the same.

STAFF RECOMMENDATIONS: Approval as stated above.

TOTAL COST: \$6,426.00 per year

BUDGETED: Yes X No

COST TO COUNTY: Same

SOURCE OF FUNDS: Ad Valorem

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing X Risk Management X

DIVISION DIRECTOR APPROVAL:

[Signature]
Dent Pierce, Director Public Works

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # C7

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with:	<u>Town Square Mall</u>	Contract #	<u> </u>
		Effective Date:	<u>07/27/04</u>
		Expiration Date:	<u>01/15/05</u>

Contract Purpose/Description:

Consent to Assignment by change of ownership from Irwin S. Morse, M.D. to David & Linda Shield.

Contract Manager:	<u>Ann M. Riger</u>	<u>4549</u>	<u>Facilities Maint/Stop #4</u>
	(Name)	(Ext.)	(Department/Stop #)

for BOCC meeting on 09/15/04 Agenda Deadline: 08/31/04

CONTRACT COSTS

Total Dollar Value of Contract: \$ 6,426.00 Current Year Portion: \$ 535.50

Budgeted? Yes ☒ No ☐ Account Codes: 001-83001-530-440-

Grant: \$ N/A

County Match: \$ N/A

ADDITIONAL COSTS

Estimated Ongoing Costs: \$_____/yr
(Not included in dollar value above)

For: _____
(eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	8/30/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	J. J. [Signature] for Det	8/30/04
Risk Management	8-24-04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	M. Slomski	8-24-04
O.M.B./Purchasing	08/24/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Shirley G. Baker	8/24/04
County Attorney	8/25/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	S. Hark	8/26/04

Comments: _____

CONSENT TO ASSIGNMENT

This Consent to Assignment is entered into this 15th day of September, 2004, by and between Monroe County, a political subdivision of the State of Florida, hereafter County, Irwin S. Morse, M.D. Assignor, and David & Linda Shield d/b/a Town Square Mall, hereafter Assignee, the parties agreeing as follows:

1. The County leases approximately 400 s.f. of office space at the Town Square Mall Unit #205, Marathon, Florida, through an Agreement dated January 16, 2002, hereafter the original agreement, and renewed for two one-year terms on December 18, 2002 and November 19, 2003. The original agreement and renewal agreements are attached and incorporated into this Consent to Assignment.
2. By a change of ownership effective July 27, 2004 from Irwin S. Morse, M.D., Assignor, to David & Linda Shield, Assignee, the Assignor assigned to Assignee all the Assignor's rights, title and interest in the original agreement.
3. Monthly rent payments shall be made payable to the Town Square Mall, and send to Key West Mini Storage, 920 Virginia Street, Key West, FL 33040.
4. In consideration for such consent, the Assignee agrees to be bound by all the terms and conditions of the original agreement, as amended above to provide for payment to be made to the assignee.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

Mayor/Chairman

Witnesses:

David & Linda Shield d/b/a Town Square Mall

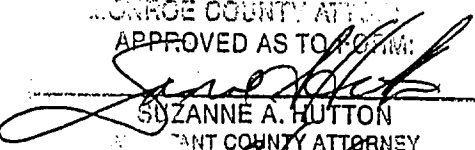
By: _____

Witnesses:

Irwin S. Morse, M.D.

By: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


SUZANNE A. HUTTON
COUNTY ATTORNEY

8/26/04

RENEWAL AGREEMENT

(Office Space for Drug Court Counselor – Town Square Mall, Marathon)

This renewal of lease agreement is made and entered into this 19th day of November, 2003, between IRWIN S. MORSE, M.D. d/b/a TOWN SQUARE MALL hereinafter called the Lessor, and the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, hereinafter called the Lessee, in order to renew the certain lease agreement dated January 16, 2002, and as renewed on December 18, 2002, (copies of which are attached hereto by reference) as follows:

1. In accordance with Section IV of the original Lease Agreement dated January 19, 2003, the Agreement shall be renewed for the final of two one year options, commencing on January 16, 2004 and terminating on January 15, 2005.
3. In all other respects, the original Lease Agreement dated January 16, 2002, and as renewed on December 18, 2002, remains in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal, the day and year first written above.

(Seal)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:

Garnell Stanwick
Deputy Clerk

By:

Murray C Nelson
Mayor/Chairman

LESSOR:

IRWIN S. MORSE, M.D. d/b/a TOWN
SQUARE MALL

By:

Irwin S. Morse

Title:

Owner

Irwin S. Morse
Witness

Joe Brock
Witness

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

Suzanne A. Hutton
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY

Date

11/03/03

RENEWAL AGREEMENT

(Office Space for Drug Court Counselor - Town Square Mall, Marathon)

This renewal of lease agreement is made and entered into this 18th day of December, 2002, between IRWIN S. MORSE, M.D. d/b/a TOWN SQUARE MALL hereinafter called the Lessor, and the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, hereinafter called the Lessee, in order to renew the certain lease agreement dated January 16th 2002, (a copy of which is attached hereto by reference) as follows:

1. In accordance with Section IV of the original Lease Agreement dated January 16, 2002, the Agreement shall be renewed for the first of two one year options, commencing on January 16, 2003, and terminating January 15, 2004.
2. In accordance with the third sentence of Section II of the original Lease Agreement, rent shall be increased by the CPI-U for the most recent twelve months available (2.0%), from \$6,300.00 annually to \$6,426.00 annually, or from \$525.00 per month to \$535.50 per month.
3. In all other respects, the original Lease Agreement dated January 16, 2002 remains in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal, the day and year first written above.



Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:

Gerald Hancock
Deputy Clerk

By:

Legia M. Spitzer
Mayor/Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY Suzanne A. Hutton
SUZANNE A. HUTTON

DATE 12/03/02 LESSOR:

Matthew F. Accella -

Witness

[Signature]
Witness

By:

Irwin S. Morse

Title:

Owner

LEASE AGREEMENT

State of Florida
County of Monroe

This Lease Agreement entered into this 16th day of January, 2002, by and between IRWIN S. MORSE, M.D. d/b/a TOWN SQUARE MALL, party of the first part hereinafter called the lessor and the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, party of the second part hereinafter called the lessee.

WITNESSETH

That the lessor for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the lessee has demised and leased to the lessee for the term and under the conditions hereinafter set out those certain premises in Marathon, County of Monroe, Florida described as follows:

LEASE LOCATION

Town Square Mall Unit #205, Marathon, Florida which shall constitute an aggregate area of approximately 400 square feet of net rentable space at the rate of approximately \$15.75 per square foot per year, \$525.00 per month, \$6,300.00 per year.

II. RENTALS

The lessor hereby leases to the lessee 400 square feet and the lessee hereby leases from the lessor the above described premises for the term set out in this lease. Lessee hereby agrees to pay the lessor the sum of six thousand three hundred dollars and no cents (\$6,300.00) annually, five hundred twenty-five and no cents (\$525.00) per month. The lease amount agreed to herein might be adjusted annually in accordance with the percentage change in the Consumer Price Index for all urban consumers (CPI-U) for the most recent twelve months available. Increases in the contract amount during each option year period shall be extended into the succeeding years. Rent shall be due and payable on or before the last day of each month, in arrears.

The rental shall be paid to the lessor and mailed to Irwin S. Morse, M.D. d/b/a Town Square Mall, 151 S.E. 15 Road, Floor Ten, Miami, FL 33129, prior to the last day of the month.

III. TERM

To have and to hold the above described premises for a term of one (1) year commencing on the date of execution by Dr. Irwin S. Morse, or approval of the Monroe County BOCC, whichever is later. ..

1/16/03 - 1/15/04

IV. RENEWAL

1/16/02 - 1/16/03

This agreement may be renewed at the option of the lessee for two (2) additional one (1) year periods. This option shall be executed only upon approval of the Board of County Commissioners.

V. AIR CONDITIONING AND JANITORIAL SERVICES

- I. The lessor agrees to furnish to the lessee air conditioning equipment to be used during normal business hours, and shall ensure that same is operational and functional during the time of this lease. The lessor herein expressly agrees to be responsible for all costs associated with maintenance and

FEB 19 2002 1

(Handwritten signature)

operation of the air conditioning system, including all electrical, mechanical components, coils, condensers and refrigerants.

2. The lessee shall provide janitorial services and all necessary janitorial supplies for the leased premises during the term of the lease at the expense of the lessee.

VI. MAINTENANCE AND REPAIRS

1. The lessee shall provide for interior maintenance and repairs in accordance with generally accepted good practices, including repainting, the replacement of worn or damaged floor covering and repairs or replacement of interior equipment as may be necessary due to normal usage. The lessee shall during the term of the lease keep the interior of the demised premises in as good a state of repair as it is at the time of the commencement of this lease reasonable wear and tear and unavoidable casualties excepted.
2. The lessor shall maintain and keep in repair the exterior of the demised premises during the term of this Lease and shall be responsible for the replacement of all windows broken or damaged in the demised premises, except such breakage of damage caused to the exterior of the demised premises by the lessee, its officers, agents or employees.
3. The lessor shall maintain the exterior of the demised premises so as to conform to all applicable health and safety laws, ordinances and codes which are presently in effect and which may subsequently be enacted during the term of this lease and any renewal periods.
4. The lessor shall provide appropriate entranceways to the structure to accommodate space allocation for government entities occupying the space, inclusive of ingress and egress, at the expense of the lessor.

VII UTILITIES

The lessor shall be fully responsible to provide and pay all utilities including solid waste, sewer, water and electricity charges which may become payable during the term of the lease for solid waste disposal, sewer disposal, water and electricity used by the lessee on the premises.

VIII ALTERATIONS

The lessee shall have the right to make any alterations to the demised premises during the term of the lease upon first having obtained the written consent of the lessor. The lessor shall not capriciously withhold the consent to any such alterations.

IX INJURY OR DAMAGE TO PROPERTY ON PREMISES

All property of any kind that may be on the premises during the continuance of this lease shall be at the sole risk of the lessee and except for any negligence of the lessor, the lessor shall not be liable to the lessee or any other person for any injury, loss or damage to property or to any person on the premises.

X FIRE AND OTHER HAZARDS

1. In the event that the demised premises or the major part thereof are destroyed by fire, lightening, storm or other casualty, the lessor at its option may forthwith repair the damage to such demised premises at its own cost and expense. The rental thereon shall cease until the completion of such

repairs and the lessor will immediately refund the pro rata part of any rentals paid in advance by the lessee prior to such destruction. Should the premises be only partly destroyed so that the major part thereof is usable by the lessee, then the rental shall abate to the extent that the injured or damaged part bears to the whole of such premises and such injury or damage shall be restored by the lessor as speedily as is practicable and upon the completion of such repairs, the full rental shall then continue the balance of the term.

2. The lessor shall provide for fire protection during the term of this lease in accordance with the fire safety standards of the State and/or Monroe County Fire Marshal. The lessor shall be responsible for maintenance and repair of all fire protection equipment necessary to conform to the requirements of the State and/or Monroe County Fire Marshal. The lessor agrees that the demised premises shall be available for inspection by the State and/or County Fire Marshal, prior to occupancy by the lessee, and at any reasonable time thereafter.

XI EXPIRATION OF TERM

At the expiration of the term, the lessee will peaceably yield up to the lessor the demised premises in good and tenantable repair. It is understood and agreed between the parties that the lessee shall have the right to remove from the premises all personal property of the lessee and all fixtures, machinery, equipment, appurtenances and appliances placed or installed on the premises by it, provided the lessee restores the premises to as good a state of repair as they were prior to the removal.

XII SUBLETTING AND ASSIGNMENT

The lessee upon the obtaining of the written consent of the lessor, which consent shall not capriciously be withheld, shall have the right to sublet all or any part of the demised premises, or to assign all or any part of the demised premises.

XIII NOT CONSENT TO SUE

The provisions, terms, or conditions of this lease shall not be construed as a consent of Monroe County to be sued because of said leasehold.

XIV WAIVER OF DEFAULTS

The waiver by the lessor of any breach of this lease by the lessee shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this lease.

XV RIGHT OF LESSOR TO INSPECT

The lessor at all reasonable times during regular business hours may enter into and upon the demised premises for the purpose of viewing the same and for the purpose of making any such repairs as they are required to make under the terms of this lease. Repairs shall be limited to non-business hours unless an emergency situation exists.

XVI BREACH OF COVENANT

If the lessee shall neglect or fail to perform or observe any covenant herein contained, which on the lessee's part is to be performed and such default shall continue for a period of thirty days after receipt of written notice thereof from the lessor to the lessee then the lessor lawfully may, immediately or any time thereafter, and without further notice or demand enter into and upon the demised premises or any part thereof and

repossess the same as of their former estate and expel the lessee and remove its effects forcefully if necessary, without being taken or deemed to be guilty of any manner of trespass and thereupon the demise shall terminate but without prejudice to any remedy which might otherwise be used by the lessor for arrears of rent or for any breach of the lessee's covenants herein contained.

XVII ACKNOWLEDGEMENT OR ASSIGNMENT

The lessee upon the request of the lessor shall execute such acknowledgement or acknowledgments or any assignment or assignments of rentals and profits made by the lessor to any third person, firm or corporation, provided that the lessor will not make such request unless required to do so by the Mortgage under a mortgage or mortgages, executed by the lessor.

XVIII AVAILABILITY OF FUNDS

The obligations of the lessee under this lease agreement are subject to the availability of funds lawfully appropriated annually for its purposes by the Monroe County Board of County Commissioners.

XIX USE OF PREMISES

The lessee will not make or suffer any unlawful, improper or offensive use of the premises or any use of occupancy thereof contrary to the Laws of the State of Florida or to such Ordinances of Monroe County now in effect or hereafter adopted, as may be applicable to the lessee.

XX INSURANCE

The lessee shall procure and maintain at its expense and throughout the term of this lease the insurance or self-insure for all claims that the lessee can be held liable for under Section 768.28, Florida Statutes, and up to the maximum amount set forth in that statute.

Notwithstanding anything to the contrary in this lease. Lessee waives all rights to recovery, claims or causes of action against the lessor and its, attorney-in-fact, agents, trustees, executors and personal representatives on account of any loss of damage which may occur to the premises, the building, the property or any improvements thereto or to any personal property of lessee to the extent such loss or damage is caused by a peril which is required to be insured against by lessee under this lease, regardless of the cause or origin (including negligence of lessor). Lessee covenants to the lessor that to the fullest extent permitted by law, no insurer of lessee shall hold any right of subrogation against lessor. Lessee covenants to lessor that all policies of insurance maintained by lessee respecting property damage shall permit such waiver of subrogation, and lessee agrees to advise all of its insurers of the waiver and provide lessor with written evidence of such waiver.

XXI NOTICES

All notices required to be served upon the lessor shall be served by certified mail, return receipt requested to Irwin S. Morse, M.D., d/b/a Town Square Mall, 151 S.E. 15 Road, Floor 10, Miami, FL 33129, and all notices required to be served upon the lessee shall be served by certified mail, return receipt requested to the Division of Public Works, Facilities Maintenance Department, 3583 S. Roosevelt Boulevard, Key West, FL 33040.

XXII. RADON GAS NOTIFICATION

Radon is a naturally occurring gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings. Additional information regarding radon and radon testing may be obtained from your County Public Health Unit.

XXIII. LEASE TERMINATION

This lease may be terminated by the lessee upon written sixty (60) days notice to the lessor that the lessee has obtained adequate office space in a governmental building.

XXIV. ETHICS CLAUSE

Lessor warrants that it has not employed retained or otherwise had act on its behalf any former County officer or employee subject to the prohibition of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of ordinance No. 020-1990. For breach or violation of this provision the lessee may, in its discretion, deduct from the contract or purchase price or other wise recover the full amount of any fee, commission, percentage, gift or consideration paid to the former County officer or employee.

XXV. AMERICAN WITH DISABILITIES ACT

The lessor herein expressly agrees to maintain the subject premises in full compliance with the American Disabilities Act. Further, the lessor shall be liable for any cost on expenditure associated with said compliance. The lessor shall be fully responsible to restore all rest room facilities to meet ADA requirements at the expense of the lessor prior to occupancies.

XXVI. PUBLIC ENTITY CRIME

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 F.S. for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.(Category Two \$10,000.00).

XXVII. DEFINITION OF TERMS

1. The terms "lease" "lease agreement" or "agreement" shall be inclusive of each other and shall also include any renewals, extensions or modifications of this lease.
2. The term "lessor" and "lessee" shall include the successors and assigns for the parties hereto.
3. The singular shall include the plural and the plural shall include the singular whenever the context so requires or permits.

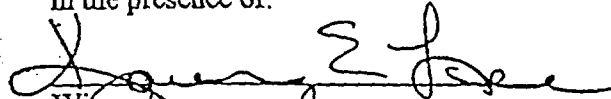
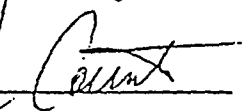

XXVIII. ADDITIONAL CONDITIONS

No additional covenants or conditions form a part of this lease


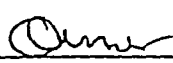
IN WITNESS WHEREOF the parties hereto have hereunto executed this instrument for the purpose herein expressed the day and year above written.

ORIGINAL SIGNATURES REQUIRED ON ALL COPIES


Signed, Sealed and Delivered
in the presence of:


Witness


DANNY E. KOLHAGE, CLERK
Hancock o.c.
Clerk

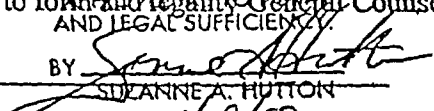
LESSOR

By:  12/02
Title: 

BOARD OF COUNTY COMMISSIONERS
MONROE COUNTY, FLORIDA

By: 

Approved as to form and legal sufficiency
for the Official Counsel of Monroe County, Florida

BY: 
SUZANNE A. HUTTON
DATE: 1/02/02